

MDR Tracking Number: M5-04-1178-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-29-03.

The requestor withdrew dates of service 03-11-03 through 04-11-03. These dates will not be reviewed by the Medical Review Division.

The IRO reviewed office visits, therapeutic procedures, joint mobilization, physical performance test, range of motion measurement, myofascial release, electrical stimulation rendered from 07-01-03 through 07-30-03 that were denied based upon "V".

The IRO determined that the therapeutic procedures, myofascial release, electrical stimulation, physical performance test on 07-08-03, joint mobilization on dates 07-22-03 and 07-30-03 and the office visits on 07-08-03, 07-09-03, 07-14-03 and 07-23-03 **were** medically necessary. The IRO determined that the range of motion measurement from 07-01-03 through 07-30-03 and all other dates from the time frame in question **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 04-19-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 97250 date of service 07-17-03 denied with denial code "F" (fee guideline MAR reduction). An EOB from the carrier indicates a recommended allowance. Contact via phone was made with the requestor @ ____ with ____ who confirmed that no payment had been received. Per the 96 Medical Fee Guideline reimbursement is recommended in the amount of \$43.00.

CPT code 97265 date of service 07-17-03 denied with denial code “F” fee guideline MAR reduction). An EOB from the carrier indicates a recommended allowance. Contact via phone was made with the requestor @ ___ with ___ who confirmed that no payment had been received. Per the 96 Medical Fee Guideline reimbursement is recommended in the amount of \$43.00.

CPT code 99213 date of service 07-17-03 denied with denial code “F” fee guideline MAR reduction). An EOB from the carrier indicates a recommended allowance. Contact via phone was made with the requestor @ ___ with ___ who confirmed that no payment had been received. Per the 96 Medical Fee Guideline reimbursement is recommended in the amount of \$48.00.

CPT code 97110 date of service 07-17-03 denied with denial code “F” (fee guideline MAR reduction). An EOB from the carrier indicates a recommended allowance. Contact via phone was made with the requestor @ ___ with ___ who confirmed that no payment had been received. Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 07-01-03 through 07-30-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 9th day of November 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

March 17, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-1178-01
 IRO Certificate #: IRO4326

The ____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

____ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ____'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a crushing injury to his left foot and ankle on ____, requiring multiple toe amputations and external fixation of the first and second toes. He attended a work hardening program for six weeks.

Requested Service(s)

Office visits, therapeutic procedures, joint mobilization, physical performance test, range of motion measurement, myofascial release, electrical stimulation, from 07/01/03 through 07/30/03

Decision

It is determined that the therapeutic procedures, myofascial release, electrical stimulation, physical performance test on 07/08/03, joint mobilization on dates 07/17/03, 07/22/03, and 07/30/03 and the office

visits on dates 07/08/03, 07/09/03, 07/14/03, and 07/23/03 were medically necessary to treat this patient's condition. However, the range of motion measurement from 07/01/03 through 07/30/03 and all other dates from the time frame in question were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical records submitted well document and substantiate the medical necessity of post surgical therapeutic exercise, myofascial release, periodic evaluation, and joint mobilization and/or manipulation. However, the records do not substantiate the medical necessity for both joint mobilization and manipulation to be performed on the same patient encounter as they are duplicative, particularly when soft tissue manipulation was also being performed; therefore, in these instances, the joint mobilization was not medically necessary.

In instances where the office visit without manipulation was performed as an Evaluation and Management (E/M) for an expanded problem focused reevaluation, the joint mobilization was indicated and the office visit was not because the medical necessity of such a high level patient encounter was not supported in the records submitted, and rather, should have been saved for an actual reevaluation patient encounter.

The muscle testing procedure performed on date 07/30/03 was not medically necessary because it was a component of the functional capacity evaluation that had just been performed two days earlier. Moreover, the same procedure performed on 07/08/03 was not necessary because this procedure was a component of the physical performance testing performed on that same date of service and is duplicative. Therefore, it is determined that the therapeutic procedures, myofascial release, electrical stimulation, physical performance test on 07/08/03, joint mobilization on dates 07/17/03, 07/22/03, and 07/30/03 and the office visits on dates 07/08/03, 07/09/03, 07/14/03, and 07/23/03 were medically necessary. However, the range of motion measurement from 07/01/03 through 07/30/03 and all other dates from the time frame in question were not medically necessary.

Sincerely,